

1 ALEX G. TSE (CABN 152348)
2 Acting United States Attorney

3 BARBARA J. VALLIERE (DCBN 439353)
4 Chief, Criminal Division

5 ROBERT S. LEACH (CABN 196191)
6 ADAM A. REEVES (NYBN 2363877)
7 WILLIAM FRENTZEN (LBN 24421)
8 Assistant United States Attorneys

9
10 450 Golden Gate Avenue, Box 36055
11 San Francisco, California 94102-3495
12 Telephone: (415) 436-7453
13 Fax: (415) 436-7234
14 robert.leach@usdoj.gov

15 Attorneys for United States of America

16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN FRANCISCO DIVISION

19 UNITED STATES OF AMERICA,) Case No. CR 16-462 CRB
20 Plaintiff,)
21 v.) UNITED STATES' RESPONSE TO
22 SUSHOVAN TAREQUE HUSSAIN,) DEFENDANT'S MOTION *IN LIMINE*
23 Defendant.) TO ADMIT EVIDENCE THAT
24) HEWLETT PACKARD IS COVERING
25) WITNESSES' LEGAL EXPENSES
26 _____)

27 The United States hereby responds to the Defendant's Memorandum re: Evidence that
28 Hewlett Packard is Covering Witnesses' Legal Expenses dated March 5, 2018 (Document 262).
The motion should be denied because Hewlett-Packard ("HP") is required by its corporate
bylaws to indemnify certain former officers in the United States – including Stouffer Egan and
Joel Scott – undermining the defendant's claim that the payment of legal fees creates "an
incentive to favor HP and the government." Document 262 at 2. *See* Attachment A (March 5,
2018 Email from HP Counsel attaching corporate bylaws and other documents available on
request).

Factually, this case bears little resemblance to *Quintero v. United States*, 33 F.3d 1133, 1135 (9th Cir. 1994), on which the defendant relies. In *Quintero*, the defendant sought to vacate his drug conviction for ineffective assistance of counsel because “his attorney was paid by an unknown third party.”

Here, HP, the former employer of certain witnesses in the trial, must provide mandatory indemnification for legal fees. These witnesses can hardly feel “gratitude,” as the defense contends, for something that is mandated. If evidence of HP’s payment of certain legal fees is admitted, it will open the door to proof that HP *must* pay legal fees for qualifying former officers and employees according to its corporate bylaws.

Finally, the government joins the defendant in emphasizing the importance of the Supreme Court’s ruling in *Wood v. Georgia*, 450 U.S. 261 (1981). In *Wood*, the Supreme Court noted that there are “inherent dangers that arise when a criminal defendant is represented by a lawyer hired and paid by a third party, particularly when the third party is the operator of the alleged criminal enterprise.” *Id.* at 268-69. If the defendant introduces evidence about HP’s payment of legal fees, then that may open the door to the possible payment of legal fees by interested parties for certain defense witnesses.

CONCLUSION

For these reasons, the Court should deny the defendant's motion *in limine* to admit evidence about HP's payment of legal fees.

Dated: January 5, 2018

Respectfully Submitted,

ALEX G. TSE
Acting United States Attorney

/s/

ROBERT S. LEACH
ADAM A. REEVES
WILLIAM FRENTZEN
Assistant United States Attorneys